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# DECISION



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-222279.2      **DATE:** April 18, 1986

**MATTER OF:** Eason & Smith Enterprises, Inc.--Request  
for Reconsideration

**DIGEST:**

Protest is dismissed where protester, third low bidder, is not an interested party to maintain the protest where, even if the protest were sustained, the protester would not be in line for award.

Eason & Smith Enterprises, Inc. (ESEI), requests reconsideration of our March 14, 1986, dismissal of its protest against the award of a contract to Chemical Waste Management Inc. under invitation for bids No. DLA200-86-B-0003 issued by the Defense Logistics Agency (DLA), Defense Reutilization and Marketing Service. We dismissed the protest as untimely under 4 C.F.R. § 21.2(a)(2) (1985).

ESEI indicated in its initial protest that DLA notified it of the award by letter dated February 5, 1986. ESEI filed the protest in our Office on March 14, 1986. Under 4 C.F.R. § 21.2(a)(2), protests must be filed within 10 working days of the date the basis for the protest was first known or should have been known. Since ESEI's protest was filed more than 10 working days after it knew the basis for its protest, we dismissed the protest as untimely.

ESEI contends in its request for reconsideration that the protest was timely because the DLA letter notifying it of the award was mistakenly dated February 5, 1986. ESEI has submitted a letter from DLA indicating that the notice of award letter should have been dated March 5, 1986, as that was the date of award. While we now accept the timeliness of the protest, we find that ESEI is not an interested party.

To be considered under our Bid Protest Regulations, a protest must be filed by an interested party within the meaning described in our regulations. An interested party is defined as an actual or prospective bidder or offeror

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whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. 4 C.F.R. § 21.0(a) (1985). In determining whether a protester is sufficiently interested, we examine the extent to which there exists a direct relationship between the questions raised and the party's asserted interest and the degree to which that interest is established. Where there are intermediate parties that have a greater interest than the protester, we have generally considered the protester to be too remote to establish interest within the meaning of our Bid Protest Regulations. See Don Strickland's Consultant and Advisory Service, B-217178; B-217388, Feb. 5, 1985, 85-1 C.P.D. ¶ 141. A party will not be deemed interested where it would not be in line for award even if its protest were sustained. Zinger Construction Company, Inc., B-220203, Oct. 30, 1985, 85-2 C.P.D. ¶ 493.

ESEI, the third low bidder, contends that the low bidder was improperly permitted to correct a mistake in bid and that the second low bidder's bid was nonresponsive because it inserted "N/C" for line items Nos. 0001-0005 and "no charge" for line item No. 0006, instead of a numerical price. We have held, however, that a bid should not be rejected as nonresponsive when no charge or similar notations are inserted instead of dollar prices because such notations indicate the bidder's affirmative intent to obligate itself to provide the items at no charge to the government. Spectrum Leasing Corporation--Request for Reconsideration, B-218267.2 Mar. 25, 1985, 85-1 C.P.D. ¶ 350.

Therefore, ESEI is not eligible under our regulations as an interested party to maintain the protest against the low bidder because, even if we sustained the protest, it would not be in line for award.

The protest is dismissed.



Robert M. Strong  
Deputy Associate General Counsel